IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 14950 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE M.R.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RAMANBEN WIDOWN OF GAMBHIRSINHCHAUHAN

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 14950 of 2003

MR DEVANG T SHAH for Petitioner No. 1-7

Mr. Nagesh Sood, AGP for Respondent No. 1

MR UI VYAS for Respondent No. 2

..... for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE M.R.SHAH

Date of decision: 05/07/2004

ORAL JUDGEMENT

The present petition is filed under Article 226 of the Constitution of India for quashing and setting aside the decision dated 10th July 2003 rendered by Assistant Town Planner, SUDA, refusing to grant

development permission and also for further appropriate writ, direction or order directing the respondents No. 2 and 3 to sanction the application dated 1st May 2003 for development permission submitted by the petitioner forthwith. Shri Devang T. Shah, learned advocate appearing for the petitioners has submitted that in the original development plan the land was reserved for housing for GIDC (H-44), however subsequently in the proposed revised development plan the said reservation is deleted and it is now meant for residential purpose. Therefore he has requested that an appropriate direction be issued directing the respondents to grant development permission to the petitioner and quash and set aside the decision rendered by the Assistant Town Planner rejecting the application of the petitioners for grant of development permission on the ground that there is a reservation for housing for GIDC (H44).

2. Earlier, the land in question was reserved for housing for GIDC (H44) in the development plan. However, a decision has been taken by the authority to dereserve the said land against the purpose of Housing-GIDC (H44). So far as the revised development plan of Surat city is concerned, the same is not finalized till this date. The Division Bench of this Court [Coram : Mr. Bhawani Singh, C.J. and Mr. H.K. Rathod, J.] by order dated 2.4.2004 in Special Civil Application No. 17993 of 2003 had directed the State Government to sanction the revised development plan within a period of three months from 2.4.2004 and the State Government was required to sanction the revised development plan. However, subsequently an application was made for extension of time. The Division Bench of this Court extended the aforesaid period for a further period of two months. Therefore, now the respondents are required to sanction the revised development plan within a period of two months from 2.7.2004. Under the circumstances, the present Special Civil Application is not entertained at this stage.

3. So far as the prayer of the petitioners for grant of development permission is concerned, in view of the fact that in the development plan at present the land is reserved for GIDC Housing (H44), and though a decision has been taken by the appropriate authority to dereserve the land still the revised development plan is not sanctioned by the State Government, direction to the respondents to grant development permission at this stage cannot be granted. As on today, the land in question is reserved for Housing GIDC (H44) purpose. The present Special Civil Application is required to be disposed of

with a liberty to the petitioner to file a fresh petition if and when necessary. The petition stands disposed of accordingly. Notice is discharged.

[M.R. Shah, J.]
rmr.